IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.25783 of 2008
KESHAW DAS
Versus

STATE OF BIHAR
- - - -

7. 27.8.2008 Heard.

The case is under Section 395 of the Indian Penal Code and the petitioner is named in the F.I.R. The learned Sessions Judge's rejection order indicates as if the petitioner had been identified by the informant and, as such, named. That part of the record made by the learned Sessions Judge was controverted very seriously by learned counsel appearing for the petitioner. While doing so, learned counsel took me through the copy of the fardbeyan - Annexure 1, and pointed out to me that there were four dacoits inside the room out of whom the informant identified Dahaur Sahni and Sitaram Sahni. The petitioner was identified because, as per the informant, another dacoit was shouting as to what Santosh was doing on the Chhaja. It is contended that it may not be a correct evidence of identification.

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This petition is pending since June,

2007 on account of the *faux pass* committed by the office of this Court, inasmuch as the office received the case diary but the Court was made to believe by the noting of the office that the same has not been received which resulted in unnecessary passing of the orders calling for an explanation from the Judge sub-ordinate to the High Court. Any responsible person could feel as to how any sensitive person could feel on being issued unnecessary letters to explain the non-compliance of any orders of this Court. The office has worded its note in the manner which I could not approve, rather, I could see it as a *faux pass* of the office and I believe, it could never give similar occasions to me. The High Court is the High Court and the Office is the Office of the High Court. Office could not be allowed to act as the controlling authority over a Judge, sub-ordinate to the High Court. I am, rather, anxious to find what the clerks or Assistants are doing to demorlise the Officers of the lower Judiciary. I could, as such, require the Registrar General of the Court to place the

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matter before the Hon'ble the Chief Justice.

As things stand and on facts of the case, let the above named petitioner, namely, Santosh Sahni, be directed to be released from custody on his furnishing a bond of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the Fast Track Court III, Darbhanga, in Sessions Trial No. 115 of 2007 arising out of Kamtaul P.S.Case No. 32 of 2006.

Kanth

(Dharnidhar Jha, J.)

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